

Briefing Report No:

Public Agenda Item: **Yes**

Title: Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 – An application for the Grant of a Sex Entertainment Venue Licence in respect of Within Temptation, Lower Union Lane, Torquay

Wards Affected: **Tormohun**

Date: **6 August 2026**

To: **Licensing Sub Committee**

Contact Officer: **Julie Smart**

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1. Key points and Summary

- 1.1 To consider and determine an application for a new Sex Entertainment Venue Licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the above-named premises. The report sets out the application details, Representations received, relevant policy and legal context along with other considerations that the Licensing Sub-Committee requires in order to determine this application.

2. Recommendations

- 2.1 That following consideration of this report, any information given orally at the hearing and/or in writing by the applicant, objectors or consultee, the Licensing Sub-Committee may determine to:
- (a) Grant the application in full. The Committee may also determine to grant the application in part.
 - (b) Grant of the application in full or in part may be subject to standard conditions (as amended), conditions which formed part of the application, conditions proposed by parties to the hearing or any other condition the Licensing Sub-Committee considers appropriate.
 - (c) Grant a Waiver.
 - (d) Refuse the application.
- 2.2 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

3. Application

- 3.1 An application has been made under Schedule 3 of the Act for a Licence to permit licensable activities at the premises detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, is as follows: -

Relevant entertainment in the form of live performances of sex and displays of nudity between the following times:

Monday – Closed

Tuesday – 1200 hrs to 0000 hrs

Wednesday – 1200 hrs to 0000 hrs

Thursday – 1200 hrs to 0000 hrs

Friday – 1930 hrs to 0130 hrs

Saturday – 1930 hrs to 0130 hrs

Sunday - Closed

The plan accompanying the application is shown in Appendix 2.

A photograph showing the exterior of the premises is shown in Appendix 3.

4. Determination of Application

- 4.1 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of the Act but is unable to issue the Licence as the application falls outside the scope of Torbay Councils Statement of Licensing Policy for Sex Establishments (the Policy)

- 4.2 Paragraph 2.1 of the Policy states:

Torbay Council being the Licensing Authority in Torbay for the purposes of the Act recognises that it can set a quantity limit regarding the number of sex establishments in an area. For the purpose of the consultation this has been set as follows:

Sex Shops – Two (in line with the existing numerical limit)

Sex Cinemas – Nil

Sexual Entertainment Venues (Lap dancing and striptease) – Two

- 4.3 Paragraph 2.2 of the Policy indicates that irrespective of the numerical limit, the Council will treat each application on its own merits.

- 4.4 Currently there are two licensed Sexual Entertainment Venues within Torbay. These being Stage Door, 17 The Strand, Torquay and Steamer Quay, Rock Road, Torquay. Stage Door operates as a lap dancing/striptease premises. Steamer Quay operates as a sexual encounter premises where like-minded, consenting adults meet for sexual purposes.

- 4.5 Within Temptation operates in a similar manner to Steamer Quay. The premises operated as an unlicensed Sexual Entertainment Venue for approximately 3 years prior to May 2024, and as a licensed Sexual Entertainment Venue between 9 May 2024 and 8 May 2026. However, on 8 May 2026 the Sexual Entertainment Venue

Licence expired and an application to renew the Sexual Entertainment Venue Licence was not received prior to the date of expiry.

- 4.6 Officers consider that despite the cap of two Sexual Entertainment Venue licenses within Torbay, Within Temptation should be licensed as it is in the public interest to ensure that the premises meet an appropriate standard in respect of public safety. This will be achieved through the annual renewal application process, together with visits to ensure the mandatory conditions are being complied with. Officers confirm that no complaints have been received in respect of these premises since 9 May 2024.

- 4.7 Paragraph 3.21 of Torbay Council's Policy states

"The Licensing Authority will attach all the relevant standard conditions to any licence. The Council recognises that each application should be considered on its own merits and as such will consider any Representations about the alteration to, addition to or removal from this standard list. However, there will need to be good reason to depart from the agreed conditions found within the attached appendices C and D. This will need to be agreed by Licensing Committees. There are no standard conditions for Sex Cinemas, as the Council has a numerical limit of zero."

- 4.8 Appendix D of Torbay Council's Policy refers to the standard conditions for Sexual Entertainment Venues. Many of the conditions relate to performers in respect of lap dancing and striptease however, these forms of entertainment do not take place at this premises.

- 4.9 In May 2024, following representations from Environmental Health for the original application for grant of a Sexual Entertainment Venue, Members considered that the conditions in Appendix D were not appropriate for this premises and imposed the conditions proposed from Environmental Health, in consultation with Devon and Cornwall Police, which the applicant agreed to. These conditions can be found in Appendix 5.

- 4.10 Representations have not been received from Environmental Health or Devon and Cornwall Police proposing that alternative conditions are imposed on the licence, should this application be granted, to replicate the Sexual Entertainment Venue Licence that expired on 8 May 2026. Environmental Health have confirmed that they did not make Representation as they believed this application was a renewal application, and not a new application. The Licensing Authority is not able to add the conditions within the expired licence to this licence, should it be granted, unless Members determine that is appropriate to impose such conditions.

- 4.11 In determining this application, the Licensing Sub-Committee will need to determine whether the location, layout, character and condition of the premises, and the standard conditions within Appendix D for Sexual Entertainment Venues, are appropriate for the grant of a Sexual Entertainment Venue Licence in line with the Council's Licensing Policy.

5. Relevant History

- 5.1 Prior to 9 May 2024 this premises operated as an unlicensed Sexual Entertainment Venue for 3 years. In 2024 Licensing Officers recommended that the applicant apply for a Sexual Entertainment Venue licence as they formed the opinion that relevant sexual entertainment was taking place at the premises. An application was subsequently received and the Licensing Sub-Committee

determined to grant the application.

- 5.2 A copy of the Sexual Entertainment Venue Licence that expired on 8 May 2026 is attached at Appendix 5 to this report.
- 5.3 The premises has the benefit of a Premises Licence under the Licensing Act 2003. The Licensing Authority is satisfied that the Licensing Objectives are being met.

6. **Policy Considerations**

6.1 Suitability of Applicant:

Within the application, the Company Directors and Manager have stated that they have no relevant convictions and Devon and Cornwall Police have not objected to the application on the grounds that the Directors and Manager are not suitable to hold a Sex Establishment Licence.

6.2 Is the Sex Establishment Venue being carried on for the benefit of another:

The applicant has stated that the business is not carried on for the benefit of another.

6.3 Appropriate number of Sex Establishments in an Area:

Paragraph 2.1 of the Policy states that the following limits have been set:

Sex Shops – Two

Sex Cinemas – Nil

Sexual Entertainment Venues (Lap Dancing and Striptease) – Two

The granting of this application will exceed the set limit for Sexual Entertainment Venues. The Licensing Sub-Committee are invited to determine this application on its own merit and should consider diverting from the Policy if it considers that it is appropriate to grant a licence to promote public safety at the premises.

6.4 The Character of the Relevant Locality:

The premises are situated in Lower Union Lane which comprises of commercial premises. A map of the area can be found in Appendix 6.

6.5 The use to which any premises in the vicinity are put:

There are no places of religious worship, historical buildings, cultural/tourist attractions, community facilities, or public buildings in the area. The premises is situated approximately 300 metres from the Leonard Stock Centre, Factory Row, Torquay which has a history of social difficulties.

An EF Language School is situated at 61 Abbey Road, Torquay, directly behind Within Temptation.

Little Palms Nursery, an early years alliance setting, is situated on the 3rd Floor of Zig-Zag's Children's Centre at 32 Market Street, Torquay.

6.6 Layout, Character and Condition of the premises:

The building consists of 2 floors. The ground floor of the premises contains a bar,

toilets, shower and changing facilities, a plunge pool and entertainment area. The first floor comprises of entertainment areas and access to a roof terrace smoking area. The entrance to the premises consists of a double door with a bell entry system. All windows are obscured so no internal view of the premises is afforded from the street. The front of the premises can be seen in the photograph at Appendix 3.

6.7 Appendix D – Standard Sex Entertainment Venue Conditions:

Consideration should be given to whether the Standard Sex Entertainment Conditions are appropriate in respect of the activity to be provided at the premises, as outlined in section 4.8 and 4.9 above.

7. Representations

7.1 Nine Representations in support of the application were received. These are shown at Appendix 4.

7.2 No Representation was received from Devon and Cornwall Police.

8. Legal Implications

8.1 The Licensing Sub-Committee may determine to:

(a) Grant the application full. The Committee may also determine to grant the application in part.

(b) Grant with additional conditions which the Licensing Sub-Committee deem appropriate.

(c) Grant a Waiver, or

(d) Refuse the application.

8.2 Before refusing to grant an application, the Licensing Authority shall give the applicant opportunity to appear before and of being heard by the Licensing Sub-Committee (Para 10(19) Schedule 3 LG(MP)A1982).

8.3 In considering this application, the Licensing Sub-Committee shall have regard to any observations submitted to them by the Chief Officer of Police and any objections that have been received in writing within the 28-day consultation period (Para 10(18) Schedule 3 LG(MP)A1982).

8.4 The Licensing Sub-Committee may refuse to grant a licence for the following reasons set out in (Para 12(3) Schedule 3 LG(MP)A1982):

a) That the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;

b) That if the licence were to be granted the business to which it relates would be managed or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;

c) That the number of sex establishments, or of sex establishments of a particular

kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

d) That the grant or renewal of the licence would be inappropriate, having regard:

- i) To the character of the relevant locality, or
- ii) To the use of which any premises in the vicinity are put; or
- iii) To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph c) or d) above shall not have the right to appeal to the magistrate's court

8.5 If the Licensing Sub-Committee determines to grant a Sexual Entertainment Venue licence, the licence will be subject to the standard conditions for Sexual Entertainment Venue licences unless the Sub-Committee determine that certain standard conditions should be expressly excluded or varied (Para 13(4) Schedule 3 LG(MP)A1982).

8.6 Should the Licensing Sub-Committee determine to refuse the application for the grant of a licence under Paragraph 12(3)(a) or (b) Schedule 3 LG(MP)A1982, the applicant may appeal to the Magistrates Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application (Para 27(1) Schedule 3 LG(MP)A1982).

Rachael Hind
Regulatory Services Manager (Commercial)

Appendices

- Appendix 1 Application form
- Appendix 2 Plan of the Premises
- Appendix 3 Photograph of front of premises
- Appendix 4 Representations
- Appendix 5 Copy of expired Sexual Entertainment Venue Licence
- Appendix 6 Map of area

Documents available in Members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Statement of Licensing Policy for Sex Establishments – 17 March 2011
Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009

